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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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James B. Kuykendall

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9057

7590

11/17/2006

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EXAMINER

AKINTOLA, OLABODE

ART UNIT

PAPER NUMBER

3691

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/929,460	<b>Applicant(s)</b> KUYKENDALL ET AL.	
	<b>Examiner</b> Olabode Akintola	<b>Art Unit</b> 3691	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 11-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 26-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Applicant's election of invention 1 in the reply filed on 10/10/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1-30 are pending. Claims 11-25 are withdrawn from consideration. Claims 1-10 and 26-30 have been examined.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10, 26-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Elgamal (USPN 6138107).

Re claims 1 and 26: Elgamal teaches a system for performing push-model fund transfers between at least one user and at least one payor, the system comprising: at least one payor interface comprising software operative to permit the at least one payer to provide information identifying a desired fund transfer (col. 6, lines 17-35); a gateway having at least one gateway account, said gateway being operative (col. 6, lines 20-21): to receive said information (col. 6, lines 30-35); to

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receive incoming funds from the payor into said at least one gateway account after receiving said information (col. 6, lines 23-26); to inform the user that the payor has provided an appropriate amount of funds if said incoming funds received are of an appropriate amount according to said desired fund transfer (col. 7, lines 57-60); and to send corresponding outgoing funds to the user after receiving said incoming funds (col. 7, lines 21-32).

Re claims 2 and 27: Elgamal teaches wherein said software is a website (col. 6, lines 17-35).

Re claim 3: Elgamal teaches wherein the at least one user is a plurality of merchants, and each merchant has an associated website (col. 6, lines 17-35).

Re claim 4: Elgamal teaches wherein said gateway comprises a gateway bank, and said gateway account is an element of said gateway bank (col. 6, lines 17-35).

Re claim 5: Elgamal teaches wherein said information comprises an amount of funds to be transferred, the payor, and the user that is to be a payee of said desired fund transfer (col. 7, lines 22-28; col. 8, lines 9-11).

Re claim 6: Elgamal teaches wherein said gateway provides deposit information to the at least one payor sufficiently identifying said gateway account to permit the payor to cause funds to be deposited therein (col. 6, lines 17-35).

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Re claim 7: Elgamal teaches wherein the payor must cause funds to be deposited in said gateway account by ordering a financial institution with which the payor has an account to transfer funds into said gateway account (col. 7, lines 12-16).

Re claim 8: Elgamal teaches wherein the payor orders said financial institution with which the payor has an account to transfer funds into said gateway account using an ACH credit to said gateway account (col. 7, lines 12-16).

Re claim 9: Elgamal teaches wherein an amount of said corresponding outgoing funds is determined by the payor and the user, and said appropriate amount of said incoming funds is selected by said gateway based on said amount of said corresponding outgoing funds such that said gateway retains some of said incoming funds (col. 7, lines 10-20).

Re claim 10: See claims 1-9 analyses, supra.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elgamal in view of Jennings et al (USPN 5659165).

Re claims 28-30: Elgamal does not explicitly teach the system wherein said at least one payer interface further comprises a transaction previewer that enables a user to select and input one of the set consisting of a desired amount of currency to be sent and a desired amount of currency to be received, and to then display a complete calculation including each other element of the transaction; wherein the currencies can be of any of a plurality of nationalities, and one element of the transaction that is displayed by the transaction previewer is the exchange rate between a nationality of currency to be sent and a nationality of currency to be received. Jennings teaches payer interface further comprises a transaction previewer that enables a user to select and input one of the set consisting of a desired amount of currency to be sent and a desired amount of currency to be received, and to then display a complete calculation including each other element of the transaction; wherein the currencies can be of any of a plurality of nationalities, and one element of the transaction that is displayed by the transaction previewer is the exchange rate between a nationality of currency to be sent and a nationality of currency to be received

(Abstract, Fig. 10). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Elgamal to include these steps. One would have been motivated to do so in order to automatically compute appropriate exchange rate and display them to the user for user's authorization.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA

  
HANI M. KAZIMI  
PRIMARY EXAMINER